

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

MICHAEL KEVIN DuPONT,
Petitioner

V.

DAVID NOLAN,
Respondent

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*
*
* No.04-11431-GAO
*
* (Hearing Requested)
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**MOTION FOR CLERK MARK BARRETTE TO BE TRAINED,OR FOR SANCTIONS
AGAINST RESPONDENT, FOR PREVIOUSLY MISSING APPENDIX VOLUMES
ONE,TWO AND THREE,MAILED IN SEPTEMBER,AND ATTY AMABILE INQUIRY**

Now comes the Petitioner,averring under pain and penalty of perjury,that in September 2004 he mailed appendix volumes one,two and three with motions which are not even on this Court's docket entries,as verified by prison treasurers response to staff request mail log entries(original filed herewith),and the state 01-P-1792 primary brief proving exhaustion was also mailed with state Judge Donahue's decision(Appendix I:13):

"Since DuPont alleges that his sentence has expired and he is being unlawfully held by the DOC,he has brought the correct and accurate procedural motion to prosecute his claim"(noting GL c.248,§ 1 habeas)

Was clerk Mark Barrette negligent for failing to file and docket these vital documents ? or was the respondent culpable for not mailing them after processing ?

Petitioner,therefore, moves for clerk Barrette to be trained,or for respondent to be sanctioned ! Because as of 12/28/04 copying time for this motion Attorney Amabile has not answered Petitioners 12/7/04 letter,an inquiry is made as to what responsibilities CJA counsel has,and a motion to compel the CJA lawyer to communicate,or for new counsel,will be filed next

week if Amabile has not expedited bail release hearing !

December 29,2004

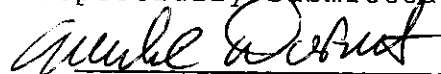
copy served on

Ass Atty General

Susan Reardon

cc.Atty John Amabile

Respectfully Submitted,



Mike DuPont pro se

PO Box 100

S.Walpole,MA.02071

**DEPARTMENT OF CORRECTION
INMATE REQUEST TO STAFF MEMBER**

TO: MARY STONE, TREASURER DATE: 12/7/04
(name and title of officer or staff)

SUBJECT: State completely and concisely the problem you would like assistance in resolving. (give details)

Volumes I, II AND III of my Appendix
C200 pages each x 3 large MANILA envelopes
ARE MISSING FROM FEDERAL COURT
FILING DOCKET ENTRIES THAT LIST ONLY VOLUME IV
Rick SALAMON copied these in mid-late
September 2004 AND I sent them out by
103 CMR 481.10 indigent LEGAL postage
I need to check my September +
October 2004 MAIL log to see if they went out.
(use other side of page if required)
(See ATTACHED VERIFICATION OF MISSING FILING)

ACTION REQUESTED: (State in what manner and/or action should request be handled
(be specific and detailed)).

Please send me LISTING of outgoing LEGAL
MAIL TO FEDERAL COURT for MONTHS
of September 2004 ~~October~~ 103 CMR
481.10 indigent LEGAL MAIL. THANK YOU!

Name: Mike W. Wain No. W/44692 Living Quarters: B-2 cell #21

Work Assignment:

Note: Following instructions in the preparation of your request can mean early disposition, in an expeditious and intelligent manner. You will be interviewed, if it is necessary, to satisfactorily handle your request. Failure to be specific and detailed stating your problem, may result in no action being taken.

DISPOSITION : (Do not write below)

9/7	3 legal	US District Court
9/8	3 legal	US District Court
9/13	1 legal	US District
9/27	1 legal	to US District

These are the listing for legal mail processed to the
US District Court.

Received 12/28/04 by Mike Wain

09/15/2004	● <u>25</u>	MOTION to Strike Respondents Answer, Supplemental Answer and Motion To Dismiss for Bad faith Omission of 01-P-1792 Exhaustion Record and False Answer Denial of Such Knowledge <u>15</u> Answer to Complaint, <u>16</u> MOTION to Dismiss <i>petition for writ of habeas corpus</i> , <u>18</u> Answer to Complaint by Michael Kevin DuPont.(Barrette, Mark) (Entered: 09/15/2004)
09/15/2004	● <u>29</u>	Third MOTION to Appoint Counsel To Expose the Respondent's Misconduct and Expedite Hearings For Release Within Six Months Remaining To be served on Twenty Year Sentence by Michael Kevin DuPont.(Barrette, Mark) (Entered: 09/15/2004)
09/20/2004	● <u>31</u>	Respondents 01-P-1792 BRIEF Exhibit Opposing Grounds 1,3,4,5,6,7, &15 on the Merits and not contesting State Habeas Corpus Exhaustion Remedy by Michael Kevin DuPont to <u>16</u> MOTION to Dismiss <i>petition for writ of habeas corpus</i> . (Barrette, Mark) (Entered: 09/23/2004)
09/20/2004	● <u>32</u>	State Exhaustion 01-P-1792 Appendix Volume IV Transcripts by Michael Kevin DuPont. (Barrette, Mark) (Entered: 09/23/2004)
11/19/2004	●	Judge George A. O'Toole Jr.: ORDER entered- Upon review of the file, this action is referred to the Magistrate Judge for appointment of counsel only.(Lyness, Paul) (Entered: 11/19/2004)
11/19/2004	● <u>33</u>	Judge George A. O'Toole Jr.: ORDER entered REFERRING CASE to Magistrate Judge Marianne B. Bowler Referred for: to appoint CJA Attorney (Attachments: # <u>1</u> Attorney assignment request# <u>2</u> Appointment of Counsel)(Edge, Eugenia) (Entered: 11/22/2004)

I mailed out several motions
 Appendix volume I: C200 pgs
 Appendix volume II: C200 pgs
 Appendix volume III: C200 pgs
 that never got to
 Federal court and
 never came back
 to me. ? ? ?
 3 big manila envelopes
 no say

08/20/2004	● <u>15</u>	ANSWER to Complaint <i>habeas corpus petition</i> by David Nolan. (Reardon, Susanne) (Entered: 08/20/2004)
08/20/2004	● <u>16</u>	MOTION to Dismiss <i>petition for writ of habeas corpus</i> by David Nolan.(Reardon, Susanne) (Entered: 08/20/2004)
08/20/2004	● <u>17</u>	MEMORANDUM in Support re <u>16</u> MOTION to Dismiss <i>petition for writ of habeas corpus</i> filed by David Nolan. (Reardon, Susanne) (Entered: 08/20/2004)
08/23/2004	● <u>18</u>	Supplemental ANSWER to Complaint(Volume 1&2***Too Large to be Scanned***) by David Nolan.(Barrette, Mark) (Entered: 08/24/2004)
08/24/2004	● <u>22</u>	Petitioner's Filing of Grievance Appeal # 4420 Concession by Respondent Nolan's 8/3/04 Exhibit Stipulating Full Exhaustion of Apprendi-Based Blakely v. Washington Grounds 3,6,7 and 15 Allowing Partial Summary Judgment Immediate Release from Michael Kevin Dupont. (Barrette, Mark) (Entered: 08/30/2004)
08/25/2004	● <u>23</u>	Opposition re <u>16</u> MOTION to Dismiss <i>petition for writ of habeas corpus</i> filed by Michael Kevin DuPont. (Barrette, Mark) (Entered: 08/31/2004)
08/31/2004	● <u>24</u>	Petitioners Decisional Support for Summarily Denying the Motion to Dismiss from Michael Kevin Dupont. (Barrette, Mark) (Entered: 08/31/2004)
09/09/2004	● <u>26</u>	MOTION Investigation of State Atty. General's Office Targeting Some Federal Judges For Omission of Collateral Exhaustion Records by Michael Kevin DuPont.(Barrette, Mark) (Entered: 09/15/2004)
09/09/2004	● <u>27</u>	NOTICE of Intent To File Dupont v O'Toole Bivens Complaint For Untrained Judge Failing To Compel Respondent to File 01-P-1792 Exhaustion Record and Delay Supporting Judge O'Toole Disqualifying Himself by Michael Kevin DuPont (Barrette, Mark) (Entered: 09/15/2004)
09/09/2004	● <u>28</u>	Demand for Expedited Decision on Merits and Assigned Counsel To Facilitate Release or for Judge O'Toole to Disqualify Himself by Michael Kevin DuPont. (Barrette, Mark) (Entered: 09/15/2004)
09/09/2004	● <u>30</u>	Verified Demand For Denial of Respondent's Motion to Dismiss and for Exposure of AAG Susan Reardon's Misconduct or for Judge O'Toole to Disqualify Himself by Michael Kevin DuPont to <u>16</u> MOTION to Dismiss <i>petition for writ of habeas corpus</i> . (Barrette, Mark) (Entered: 09/15/2004)

Attachment C

MASSACHUSETTS CORRECTIONAL INSTITUTION
CEDAR JUNCTION
PHOTOCOPY REQUEST
Main Law Library

All Documents requested for copy must be original legal documents in accordance with
103 CMR 478, (Paragraph 478.11 Section 4).

Name: M. Robert ID# W/44692 Date: 12/29/04
Block: 1 CELL: 16
Number of original legal documents (pages) 5 1 = Judge 2001P
to be copied: 3 1 = AST AG REASON
Number of copies requested: 1 1 = Att John Amabile
One Sided ☒ Two Sided ☐
Description of material to be copied: (attorney letter, motion,
brief) motion w/ exhibit
Justification: (docket number, tracking schedule, official court
notice) 04-11431-GAO

Received: Rec/Officer _____ Date: _____ Time: _____

Reviewed: Librarian (or designee) _____ Date: 12/29/04 Time: _____

Copied and Completed by: (use stamp) MCI-CJ 8:30 p.m.
RECEIVED
DEC 29 2004
LIBRARY

COMPLETED

DEC 29 2004

By [Signature]
MCI-CJ Law Library

Note
officer
Nagle
library duty
12/29/04
MCI-CJ
BTL

COMMONWEALTH OF MASSACHUSETTS

5299

**DEPARTMENT OF CORRECTION
INMATE GRIEVANCE APPEAL FORM
FORWARD TO SUPERINTENDENT**

Name DUPONT MICHAEL Institution MCI CEDAR JUNCTION

Number W44692 Housing BLOCK 1 Appeal Date 09-SEP-2004 Date Of Grievance 23-AUG-2004

Appeal Received Date 14-SEP-2004

Appeal Remedy Requested I was prejudiced and harmed in Dupont v. Nolan #04-11431-GAO by six weeks denial of access to my Dupont V. Commissioner 01-P-1792 seized brief and 4 volumes regarding that case. Atty General Reardon concealed from Judge O'Toole unethically. Staff told me there would a new policy, then a Sgt. told me the CPO's union was protesting their role, so nobody gave me new access policy.

Staff Recipient I incorporate herein by reference all facts from grievance #5299 and I request up to one-hundred thousand dollars chapter 258 tort damages for negligent failure to train and supervise negligent guards. I also request a copy of the new policy for access to seized/stored files and tha I be scheduled for access again as soon as possible.

Signature Aucoin Ann Marie CO I

DECISION BY SUPERINTENDENT

Appeal Received Date 14-SEP-2004 Decision Date 21-SEP-2004 Decision PARTIAL APPROVAL

Decision By Nolan David F SUPERINTENDENT

Reasons All requests for legal exchanges shall be submitted in writing to the Property Department. Once received by the Property Officer he/she shall make arrangements to schedule you for a legal exchange.

Signature 

Date 09/23/04

INMATE RECEIPT

Inmate's Name DUPONT MICHAEL Institution MCI CEDAR JUNCTION

Number W44692 Appeal Received Date 14-SEP-2004

Staff Recipient Aucoin Ann Marie CO I

Superintendent's Signature _____

COMMONWEALTH OF MASSACHUSETTS**DEPARTMENT OF CORRECTION****INMATE GRIEVANCE FORM****FORWARD TO INSTITUTIONAL GRIEVANCE COORDINATOR (IGC)**

Name DUPONT MICHAEL Grievance# 5299 Institution MCI CEDAR JUNCTION

Commit No. W44692 Housing BLOCK 1 Date Of Incident 20040820 Date Of Grievance 20040823

Complaint On 7-18-04 at the same time I wrote Sgt Padula about denial of toilet paper for grievance #4738, I put in the same envelope a request to staff for access to my seized/stored legal files but Sgt Padula has not scheduled me for access in the past 5 weeks and also has not scheduled many other prisoners who request a legal exchange.

Remedy Requested Investigate whether or not Sgt Padula put me on legal storage exchange list as a result of the 7-18-04 request to staff form I sent him and because I have Dupont VS Man, 04-11431-GAO, federal court opposition filing time limit and I need my transcripts, please schedule me for legal exchange this week.

Staff Recipient Aucoin Ann Marie CO I

Staff Involved _____

Signature *Michael Dupont*

RECEIPT BY INSTITUTIONAL GRIEVANCE COORDINATOR

Date Received 20040824 Decision Date 20040828

Signature Aucoin Ann Marie CO I

Final Decision PARTIAL APPROVAL

Decision You are scheduled to access your excess legal storage the week of August 29th-September 4th.

Signature *Ann Marie Aucoin* Date 8/28/04

Denied grievances may be appealed to the Superintendent within 10 working days of Institution Grievance Coordinator's decision.

INMATE RECEIPT

Name DUPONT MICHAEL Institution MCI CEDAR JUNCTION

Commit No. W44692 Grievance# 5299 Date Received 20040824

Signature Aucoin Ann Marie CO I

Response Received September 2, 2004
by Mubel 😊
Following my getting 1/2 hour
Access Thursday 9/2/04